

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JIMMY SMITH and ANTHONY PALUMBO,
suing on behalf of themselves and all others
similarly situated,

Plaintiffs,

ECF CASE

-against-

WAIVER OF SERVICE
OF SUMMONS

THE NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES and BRIAN
FISCHER, Commissioner, Department of
Correctional Services,

08 CIV 7090

Defendants.
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TO: ROBERT N. ISSEKS, ESQ., 6 North Street, Middletown, New York 10940

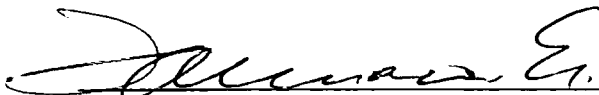
I acknowledge receipt of your request that I waive service of a summons in the action of Jimmy Smith and Anthony Palumbo, suing on behalf of themselves and all others similarly situated vs. The New York State Department of Correctional Services and Brian Fischer, Commissioner, Department of Correctional Services, which is case number **08 CIV 7090** in the United States District Court for the Southern District of New York. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after **August 13, 2008**, or within 90 days after that date if the request was sent outside the United States.

Date: 8/20/08



Signature LA Mancini, Esq.

Associate Counsel - NYSDOCS

Printed/typed name

On Behalf of Defendants

(as NYSDOCS and Brian Fischer,

(of Commissioner, NYSDOCS.